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No. 89-577

In The

Supreme Court of the United States

October Term, 1989

WALDO R., INC. R. WALDO, INC.
and RUSSELL WALDO, Individually

Petitioners,

v.

PIPEFITTERS HEALTH AND WELFARE TRUST,
PIPEFITTERS PENSION TRUST
and
PIPEFITTERS LOCAL UNION NO. 562; JOHN MARSHALL,
administrator and fiduciary of all plantiff funds;
LESTER GROSS, JOE BARRY, DON DEVITT
and ROBERT MCDONALD, trustees,

Respondents.

MEMORANDUM IN OPPOSITION OF PETITION FOR WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE EIGHTH CIRCUIT

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Counsel of Record

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MEMORANDUM OPPOSING CERTIORARI

This case arose when a union and a trust fund acting as co-plaintiffs sought to collect monies due under a lawful and implemented pre-hire agreement where services were performed after a unanimous vote by employees and then subcontracted by the employer in breach of the labor agreement prior to its expiration. The defendants-petitioners after discovery admitted alter-ego status in the construction industry. The NLRB and Courts below found that the employer

by and through its sole shareholder and control person had commingled its operations in relevant respects. The circuits are uniform in holdings on such issues in that individual entities proceed at their own risk under such circumstances.

Since the factual issues are essentially undisputed, the Court of Appeals applied appropriate legal principles. Further, no unique policy issues are pending here and there is not reason for the Court to grant certiorari in this case.

Therefore, the Petition of Writ of Certiorari should be denied.

Respectfully submitted,

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130 South Bemiston Avenue
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October 27, 1989

CERTIFICATE OF SERVICE

A copy of the foregoing was mailed this 27th day of October, 1989 to Mr. Stuart W. Hyvonen, 602 Hancock, Saginaw, Michigan 48602 and John W. Ellinger, 497 East High Street, Jefferson City, Missouri 65101.

JOHN H. GOFFSTEIN